

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6996

BILL NUMBER: SB 282

NOTE PREPARED: Dec 31, 2008

BILL AMENDED:

SUBJECT: Prohibit Smoking in Public Places.

FIRST AUTHOR: Sen. Errington

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill prohibits smoking in public places and places of employment.

It establishes certain civil penalties for violations and it requires that the civil penalties collected for violations be deposited into the Tobacco Use Prevention and Cessation Trust Fund.

Effective Date: July 1, 2009.

Explanation of State Expenditures: The bill specifically allows the Indiana State Department of Health (ISDH), the Alcohol and Tobacco Commission, their designees, and the Division of Fire and Building Safety to enforce the smoking ban and respond to filed complaints alleging noncompliance. Also local fire departments may enforce the ban as part of their inspection programs.

Background- Under current law, the Clean Indoor Air Law is under the sections of the Indiana Code concerning the ISDH. Enforcement of the statute is not assigned, meaning that it is enforced by law enforcement officers.

There are no data available to estimate the number of public places where enforcement will occur. These state agencies could enforce the smoking ban with their own enforcement agents or delegate enforcement to other local agencies. (Under IC 34-28-5, all law enforcement officers have authority to enforce infractions.) Also, they could actively enforce the smoking ban or choose to only investigate complaints received. These management decisions will determine the additional staffing requirements.

Explanation of State Revenues: There are no data available to indicate if more people will violate smoking prohibitions due to changes in:

- the definition of public places,
- the addition of places of employment, or
- the exemptions from regulation.

Also, there are no data available to indicate if more people will violate the smoking ban with the addition of a reasonable distance of a public place or place of employment or in designated areas added to the element of the ban.

The bill decreases the penalty for smoking in a prohibited area from a Class B infraction to a Class C infraction, and it removes an enhanced penalty of a Class A infraction for repeat offenses. For all violations of the ban, the bill imposes a fine of \$50, which is deposited in the Tobacco Use Prevention and Cessation Trust Fund.

Additionally, the bill imposes a Class C infraction on the official in charge of a public place, place of employment, or other area where smoking is prohibited for failing to meet the requirements of the law. Currently, there is no specific penalty. The civil judgment increases based on prior offenses as follows:

- \$100 - First offense.
- \$200 - Second offense within a year of a previous violation.
- \$500 - Subsequent offense within a year of a previous violation.

Each day a violation occurs is a separate violation of the section. All judgements collected under this section will be deposited in the Tobacco Use Prevention and Cessation Trust Fund.

Background- The maximum judgment for a Class B infraction is \$1,000, while the maximum judgment for a Class C infraction is \$500. Proceeds from infraction judgments are deposited in the state General Fund. Court fees of \$70 are charged for infractions.

The Tobacco Use Prevention and Cessation Trust Fund is operated by the State Department of Health to make grants to implement the long-range state plan and pay the general operating and administrative expenses of the executive board of the Fund. The Fund consists of money distributed from the Indiana Tobacco Master Settlement Agreement Fund by statute; appropriations from other sources; grants, gifts, and donations; and accrued interest. Money in the fund at the end of a state fiscal year does not revert to the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: The court fees are \$70 for infractions.

State Agencies Affected: ISDH, Alcohol and Tobacco Commission, their designees, and the Division of Fire and Building Safety.

Local Agencies Affected: Fire departments.

Information Sources:

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